

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JODIE D. GRAGG,

Plaintiff,

v.

GRAYS HARBOR PROSECUTOR'S
OFFICE, *et al*,

Defendants.

Case No. C07-5496RJB-KLS

ORDER DIRECTING CLERK TO
DISMISS COMPLAINT
WITHOUT PREJUDICE

This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1)(B). This matter comes before the Court upon plaintiff's letter requesting dismissal of his civil rights complaint without prejudice. (Dkt. #6). After reviewing plaintiff's motion and the record, the Court hereby does find and ORDERS as follows:

On October 12, 2007, the Court issued an order to show cause directing plaintiff to file an amended complaint curing, if possible, certain deficiencies in his original complaint, or show cause why this matter should not be dismissed as frivolous. (Dkt. #5). On October 19, 2007, plaintiff sent a letter to the Clerk requesting that his complaint be dismissed without prejudice. (Dkt. #60).

Under Federal Rule of Civil Procedure ("Fed. R. Civ. P.") 41, plaintiff has the right to voluntarily dismiss his case without order of the Court when no answer or motion for summary judgment has been filed by an adverse party. Fed. R. Civ. P. 41(a)(1) specifically provides that

1 dismissal as a matter of right can be foreclosed only by the filing of an answer or a motion for
2 summary judgment. Roddy v. Dendy, 141 F.R.D. 261, 262 (S.D. Mississippi, 1992).

3 Procedurally in this case, defendants have not yet been served with the complaint.
4 Accordingly, pursuant to Fed. R. Civ. P. 41(a)(1), plaintiff's request to dismiss his complaint without
5 prejudice (Dkt. #6) hereby is GRANTED.

6 The Clerk is directed to dismiss this matter without prejudice and to send a copy of this Order
7 to plaintiff.

8 DATED this 1st day of November, 2007.

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12 Karen L. Strombom
13 United States Magistrate Judge
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